

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,)
)
V.)
)
MICHAEL CROOKER,)
)
DEFENDANT.)

FILED
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CR-04-30034-MAP
U.S. DISTRICT COURT
DISTRICT OF MASS.

DEFENDANT'S REPLY TO GOVERNMENT MEMORANDUM
IN RESPONSE TO MOTION TO SUPPRESS EVIDENCE
AND REQUEST FOR A RULING

Defendant supplements his Memorandum of Law and Proposed Findings of Fact filed on October 17, 2005 as follows and he requests that the court rule as it said it would at oral arguments on November 7, 2005.

The government mischaracterized the delivery time of the parcel "of anywhere between 4 days and two weeks." This was not the testimony in the Suppression Hearing however. While Harold Stevens initially testified that Insured Parcel Post takes up to "7 to 14 days," that was later corrected by Postal Staff testimony to refer to items sent to the West Coast and Hawaii, not Ohio.

The un rebutted testimony of the defendant was that he sent parcels to Ohio in 3 days and Defendant's Exhibit B from the Postal Service Website states the delivery time is 4 days, not "4 days minimum."

The case cite of United States v. Gill, 280 F.3d 923 (9th Cir. 2002) involved a 5 1/2 day warrantless seizure, not

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6 days, and there was a finding of diligence. In United States v. Aldaz, 921 F.2d 227 (9th Cir. 1990) the 5 day delay involved 3 days of that being due to the slow mailtime of Alaska's "Bush-Country," something not the government's fault. And the 4 day delay in United States v. Ganser, 315 F.3d 839 (7th Cir. 2003) was due to 2 days of that being occasioned by the need to await the next business days' mail delivery as a "controlled delivery" was part of the case.

As previously stated, no court has ever upheld a 7 1/2 day warrantless detention of mail.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I have this date mailed a copy of the foregoing to the following persons:
Kevin O'Regan, AUSA, U.S. Attorneys, 1550 Main Street, Springfield, MA 01103 and Vincent Bongiorno, Esq., 95 State Street, Suite 309, Springfield, MA 01103.

Dated: January 25, 2006

s/ 